

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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BOURNEWOOD HOSPITAL, )  
Plaintiff, )  
v. ) Civil Action No. 04-10149JLT  
TOMMY G. THOMPSON, SECRETARY, )  
U.S. DEPARTMENT OF HEALTH and HUMAN )  
SERVICES, )  
Defendant. )

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**JOINT LOCAL RULE 16.1 STATEMENT**

The parties in this action submit the following Joint Statement pursuant to Local Rule 16.1 and the Court's Order of May 25, 2004.

1. **Agenda for Scheduling Conference:** The parties have agreed that the matters to be discussed at the Initial Scheduling Conference are:

- a. Schedule for filing dispositive motions;
- b. Trial by Magistrate; and,
- c. Final pretrial conference and trial dates.

2. **Proposed Discovery Plan:**

The parties agree that no discovery needs to be done, as the case shall be decided on the administrative record and briefs submitted thereon.

3. **Consent to Trial by Magistrate:**

The parties do not consent to a trial by a United States Magistrate Judge at this time.

4. **Proposed Schedule for Motions:**

- a. Plaintiff's dispositive motion will be filed by September 30, 2004.
- b. Defendant's reply to Plaintiff's dispositive motion and Defendant's cross-dispositive motion will be filed by November 15, 2004.
- c. Plaintiff's reply to Defendant's cross-dispositive motion and Plaintiff's sur-reply will be filed by December 30, 2004.
- d. Defendant's sur-reply will be filed by February 15, 2005.

**5. Designation of Experts:**

The parties do not anticipate the need for expert and rebuttal expert witnesses at this time.

**6. Final Pre-Trial Conference:**

The Final Pre-Trial Conference shall be scheduled after all dispositive motions are heard.

Respectfully submitted,

Defendant,  
TOMMY G. THOMPSON, SECRETARY,  
U.S. DEPARTMENT OF HEALTH and  
HUMAN SERVICES,

By his attorney,

MICHAEL J. SULLIVAN  
UNITED STATES ATTORNEY  
/s/ Gina Y. Walcott-Torres  
Gina Y. Walcott-Torres  
Assistant U.S. Attorney  
John Joseph Moakley U.S. Courthouse  
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Plaintiff,  
BOURNEWOOD HOSPITAL,

By its attorney,

/s/ Carolyn Jacoby Gabbay  
Carolyn Jacoby Gabbay, Esq.  
Gordon M. Jones, III, Esq.  
Nixon Peabody, LLP  
101 Federal Street  
Boston, MA 02110  
(617) 345-1000

**CERTIFICATE OF SERVICE**

This is to certify that I have this 21<sup>st</sup> day of June 2004, served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Carolyn Jacoby Gabbay, Esq., and Gordon M. Jones, III, Esq., Nixon Peabody, LLP,  
101 Federal Street, Boston, MA 02110

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Gina Y. Walcott-Torres  
Assistant United States Attorney